

**STATEMENT OF  
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OF THE  
DISABLED AMERICAN VETERANS  
BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON BENEFITS  
UNITED STATES HOUSE OF REPRESENTATIVES  
JULY 10, 2001**

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than one million members of the Disabled American Veterans (DAV) and its Auxiliary, I express my appreciation for this opportunity to present the views of our organization on several pieces of legislation before the Subcommittee.

Mr. Chairman, I wish to commend you, Ranking Democratic Member Reyes, and all members of the Subcommittee for your decision to give hearing consideration to the legislation contained on today's agenda. We deeply value and appreciate the advocacy that this Subcommittee has always demonstrated on behalf of America's service-connected disabled veterans.

The legislation pending before this Subcommittee covers a range of issues important to veterans and their families. The DAV is an organization devoted to advancing the interests of service-connected disabled veterans, their dependents and survivors. For the past eight decades, the DAV has been devoted to one single purpose: building better lives for our nation's disabled veterans and their families. During the past 80 years, the DAV has never wavered in its commitment to serve our nation's service-connected disabled veterans and their families.

The centerpiece of DAV programs is our veterans' claims assistance service. We employ a corps of 250 National Service Officers (NSOs) that we have thoroughly trained in veterans' benefits law and the medical aspects of disability evaluation. These NSOs, who are themselves service-connected disabled veterans, must successfully complete a combination of 16 weeks intensive classroom instruction in our own National Service Officer academy and an additional 12 months on-the-job training. Our NSOs provide free benefits counseling and claims assistance to hundreds of veterans and family members each day in DAV offices around the country. For the eleven-month period, from July 1, 2000 to May 31, 2001, DAV NSOs filed 127,620 new claims for veterans and their families seeking benefits from the Department of Veterans Affairs (VA).

Among the several organizations that represent veterans before the Board of Veterans' Appeals (BVA), the DAV represents by far the largest number and percentage of the total number of appellants. In fiscal year (FY) 2000, we provided representation in 11,061 of the cases decided by BVA, which was more than 35% of represented appellants and 32.5% of all appellants.

The DAV is also the largest single practitioner before the United States Court of Appeals for Veterans Claims. Our judicial appeals staff filed 168 appeals in 2000. Of the 127 cases for which a disposition was reached in the Court last year, 122 were reversals or remands. The Court affirmed the BVA decisions in only five of our appeals. We therefore had a remarkable 96% success rate at the Court.

In striving to even more effectively meet veterans' needs and ensure they receive the benefits our grateful nation has authorized for them, we have undertaken two new initiatives to enhance and expand benefits counseling and claims representation services to veterans. The first of the two programs involves outreach to members of the Armed Forces at the location and time of their separation from active service. The second involves services to veterans in the communities where they live.

For benefits counseling and assistance in filing initial claims, the DAV has hired and specially trained 23 Transition Service Officers who will provide these services at military separation centers, under the direct supervision of DAV National Service Officers. This corresponds to goals in the strategic plans of both VA and the DAV. By accepting and deciding compensation claims at separation centers where the service medical records and examination facilities are readily available, VA's strategic plan envisions better, more prompt service to veterans in a way that is also more efficient and effective for VA. This enhancement in assistance to those seeking veterans' benefits will contribute to the DAV's strategic goal of maintaining its preeminent position as a provider of professional service to veterans.

The DAV's new Mobile Service Office program is a part of the same goal. By taking its service offices on the road to rural America and assisting veterans where they live, the DAV will increase accessibility to the benefits our Nation provides for veterans. The DAV has initially put 12 of these specially equipped mobile offices on tour to make stops in communities across the breadth of the country. In an initial 7-day trial run of one of our Mobile Service Office units in January of this year, we interviewed 616 veterans and other potential claimants. We accepted new powers of attorney to represent 336 claimants, and we completed 458 applications for benefits. This program officially started in March 2001. Since then, we have visited 620 cities around the country. This program promises to be very successful. For its first year, we project that we will conduct 40,000 interviews, take 29,500 applications for benefits, and execute 20,000 new powers of attorney.

### **H.R. 862**

This measure would amend title 38, United States Code, to add Diabetes Mellitus (Type 2) to the list of diseases presumed to be service connected for veterans exposed to certain herbicide agents. Diabetes Mellitus (Type 2) would be added as subparagraph (h) under Section 1116(a)(2) of title 38, United States Code.

This bill would codify the decision of the Secretary of Veterans Affairs, under the authority granted by title 38, United States Code, section 1116, to establish presumptive service connection for Type 2 diabetes as a condition related to exposure to certain herbicide agents.

The final rule published by the VA in the May 8, 2001 Federal Register, 66 Fed. Reg. 23,166, implemented the Secretary's decisions.

The DAV supports this legislation.

### **H.R. 1406**

This legislation would amend title 38, United States Code, section 1117, to improve presumptive compensation benefits for veterans with ill-defined illnesses resulting from the Persian Gulf War.

This measure would expand the list of disabilities recognized as a disability resulting from service in the Persian Gulf War. It would add fibromyalgia, chronic fatigue syndrome, a chronic multi-symptom illness, or any other ill-defined illness (or combination of ill-defined illnesses), under subsections (a) and (c) of section 1117.

The bill would also add a provision to allow a Gulf War veteran in receipt of compensation under section 1117 or 1118 to participate in a research project sponsored by VA without fear of losing his or her entitlement to compensation based on medical information derived directly or indirectly from participation in the research project.

The DAV supports the provisions of this legislation to expand the list of disabilities for which service connection can be presumed for Gulf War veterans and to protect the benefits of those Gulf War veterans who participated in VA-sponsored research projects. We note, however, that the presumptive period for the manifestation of undiagnosed illnesses is due to expire at the end of this year. See 38 C.F.R., section 3.317(2000). Section 1117(b) provides that the Secretary shall prescribe the appropriate time period for the presumption. It is extremely important, especially for those men and women who continue to serve in the Persian Gulf region, that the presumptive period not be allowed to expire on December 31, 2001.

If VA is unwilling to extend the date beyond December 31, 2001, then this Subcommittee should propose to amend section 1117(b). We note that H.R. 612 has a provision to extend the presumptive period for an additional 10 years. The DAV supports extending the presumptive period for Gulf War illnesses beyond December 2001.

### **H.R. 1435**

This measure would authorize the Secretary of Veterans Affairs to award grants to provide for a national toll-free hotline to provide information and assistance to veterans and their families, including crisis intervention counseling, general information with respect to veterans' benefits under title 38, United States Code, and information with respect to provisions of emergency shelter and food, substance abuse rehabilitation, employment training and opportunities, and small business assistance programs. The provisions of this bill limit a grant to a period of not more than two years, with payment subject to annual approval by the Secretary and subject to the availability of appropriations.

The proposed legislation would require a private, non-profit entity to contract with a carrier for use of a toll-free telephone line; employ trained and supervised personnel to answer incoming calls and provide counseling and referral service to callers on a 24-hour-a-day basis; assemble and maintain a current database of information; and publicize the hotline. The private, non-profit organization must demonstrate that it is a nationally recognized expert in the area of furnishing assistance to veterans and have a record of high quality service in furnishing such assistance, including the support from advocacy groups, such as veterans service organizations.

As written, the DAV is opposed to H.R. 1435. This measure attempts to take away an intrinsic part of VA's mission of service to veterans and their families.

Since about 1993, the VA has had a toll-free number whereby veterans or other VA claimants could obtain information about benefits and health care services. VA counselors also have available to them information on benefits offered by other federal departments and agencies and states.

In March 2001, the DAV conducted a nationwide survey of VA's national toll-free hotline. The supervisory NSOs in all of our offices were asked to call the VA toll-free number and track how many times they had to call before they got through and how long they had to wait to receive the requested service. They were instructed to request the "new" Agent Orange Help Line toll-free number, which had been published by the VA the week prior to our survey.

The results of our survey were surprising and somewhat unexpected. In all but a few cases, our NSOs were able to access the help line on the first call. In one case, in Hartford, Connecticut, it took 14 tries before they were able to get through; however, very few NSOs received a busy signal when they called. For the most part, services were rendered in less than five minutes—this was total call time. In the vast majority of the calls, our NSOs received the correct toll-free Agent Orange Help Line phone number. In some cases, our NSOs were put on hold while the counselor obtained the phone number. In a few cases, our employees were referred to either the medical center or the Agent Orange registry. Overwhelmingly, we were informed that the counselors were polite and courteous. In some cases, the counselors offered to provide any additional assistance that might be needed on other matters.

The only complaint we received from a few of our supervisory NSOs dealt with the automated, recorded message they had to listen to before reaching a counselor. It was their concern that older veterans might find it frustrating or difficult to maneuver through. However, it is difficult to imagine how a more effective system might be devised to avoid this situation and still provide a complete menu of available services.

In conclusion, it would appear that our "non-scientific" survey confirms that the current VA toll-free number is working. As with any service, it must be continually monitored, evaluated, and improved.

If this Subcommittee believes that VA is not adequately meeting the needs of veterans or other VA claimants in providing needed information, then VA should be held accountable. If

this Subcommittee also believes that 24-hour-a-day access to this information is necessary, then VA should be provided the resources to staff these toll-free telephone lines 24-hours a day.

The DAV does not believe that a private, non-profit organization would be better able to handle this function. Accordingly, we do not support this legislation.

#### **H.R. 1746**

This proposed legislation would require the Secretary of Veterans Affairs to establish a single, toll-free telephone number to allow for access by the public to veterans' benefits counselors at the VA. This would be accomplished by amending section 7723 of title 38, United States Code, by adding a new subsection, (c).

It is unclear what the purpose or intent is of this legislation. The VA currently has several toll-free numbers that provide access to the public to inquire about specific information, such as benefits, health care eligibility and enrollment, life insurance, burial benefits, a sexual trauma help line, and a Gulf War help line.

As discussed above, it appears, based on our survey, that the VA is doing a good job of providing information via their national toll-free hotline.

If the intent of this legislation is to codify the requirement that VA perform tasks and functions similar to those outlined in H.R. 1435, then this bill, H.R. 1746, should specifically set forth those requirements.

#### **H.R. 1929**

This bill would amend title 38, United States Code, section 3761 (c), to extend the Native American Veterans Housing Loan Pilot Program.

The program under which VA provides direct housing loans to Native American veterans living on trust lands began as a five-year pilot in 1992. In 1997, the sunset date of September 30, 1997, was extended to December 31, 2001. This proposed legislation would extend the sunset date to 2005.

Although DAV does not have a resolution on this issue, we believe Native American veterans should have the same opportunities for home ownership that other veterans enjoy. Accordingly, the Committee should favorably consider this legislation.

A similar bill in the Senate, S. 228, would make housing loans to Native American veterans a permanent program.

Section 3 of this measure would amend section 3762 (a)(1) of title 38 to authorize the use of certain federal memorandums of understanding. The DAV has no position on this change.

**H.R. 2359**

This proposed legislation would authorize the payment of National Service Life Insurance (NSLI) and United States Government Life Insurance (USGLI) proceeds to an alternate beneficiary when the primary beneficiary cannot be identified. It would make changes to and extend the Native American Veteran Housing Loan Pilot Program. Finally, it would eliminate the requirement to provide the Secretary of Veterans Affairs a copy of a notice of appeal to the Court of Appeals for Veterans Claims (CAVC).

Section 1(a) of this bill would amend section 1917 of title 38, United States Code, to allow for the payment of NSLI proceeds to be made to a secondary beneficiary designated by the insured, if the primary beneficiary has not made a claim for such payment within two years after the death of the insured. At that time, the primary beneficiary would be treated as if he or she had predeceased the insured.

Further, if within four years after the death of the insured, no claim has been filed by a designated beneficiary, payment of the insurance proceeds may be made to such person as may, in the judgment of the Secretary, be equitably entitled to such proceeds.

Similar provisions would be added to amend section 1951 pertaining to payment of proceeds under USGLI.

Annually, VA sends out statements to policyholders of their life insurance programs regarding the status of the veteran's insurance policy. Recently, VA requested policyholders to resubmit beneficiary designations so that the form could be electronically filed in VA's new imaging system. This form also requested beneficiaries' social security numbers. As part of their annual mailing to life insurance policyholders, VA should continue to request updated beneficiary information, including social security numbers, from policyholders, to ensure that VA's records are current. In this way, VA can further ensure that it is able to carry out the deceased veteran's wishes as to who is to receive the proceeds of his or her life insurance policy.

It is unclear what VA currently does to ensure that a veteran's beneficiary is located and receives notice that life insurance proceeds are available. Further, a two-year window of opportunity for a primary beneficiary to file a claim appears to be a very short period of time, especially in light of the fact that after that two-year period, the primary beneficiary is treated as if he or she had predeceased the insured and, therefore, is precluded from receiving the life insurance proceeds. Likewise, a secondary beneficiary would have only two years in which to file a claim after the primary beneficiary's two-year period elapses.

We are unaware of any private insurance company that has similar restrictions. Accordingly, the DAV is opposed to the provisions contained in Section 1 of this measure.

Section 2 (a) of this bill would extend the Native American Veterans Housing Loan Pilot Program to 2005, similar to the provisions in H.R. 1929. As noted, the DAV has no objection to extending this program.

Section 2 (b) and subsection (c) would make additional modifications to section 3762 (a)(1) and 3714 (d) respectively. The DAV has no position on these changes.

Section 3 of this legislation would eliminate the requirement that an appellant, seeking to obtain review by United States Court of Appeals for Veterans Claims, provide a copy of said notice of appeal to the Secretary of Veterans Affairs.

The DAV is not opposed to favorable consideration by the Subcommittee of this provision.

### **H.R. 2361**

This measure would increase the rate of disability compensation, dependency and indemnity compensation, additional compensation for dependents, and the clothing allowance by the percentage of annual increase in the cost of living, with rounding down of the adjusted rates to the next lowest whole-dollar amount. These increases would be effective December 1, 2001.

Mr. Chairman, the DAV supports favorable consideration of this measure. However, we continue to oppose rounding down of compensation increases, and we urge this Subcommittee and the full Committee to reject recommendations to extend the sunset provisions of this deficit reduction provision or to permanently extend rounding down provisions.

Before I close, I would like to commend the members of the full Committee for their swift action earlier this year in passing H.R. 801. As originally passed by the House, H.R. 801 provided for increases in the amount of assistance for automobile and adaptive equipment and specially adapted housing. Unfortunately, the Senate removed these provisions from the bill, which was later signed into law, as Public Law 107-14, enacted on June 5, 2001.

I would encourage this Subcommittee to continue to pursue passage of these important provisions. These provisions are of great benefit to our more seriously disabled veterans. Congress has not protected these important benefits from the severe effects of inflation and increased costs over the years. The value of these benefits has substantially eroded through the years.

This concludes my statement, Mr. Chairman. I would be pleased to respond to any questions you may have.